



Paper No. 29

FELFE & LYNCH
805 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

MAY 12 1994

**OFFICE OF PETITIONS
A/C PATENTS
ON PETITION**

In re Application of
Thierry Boon et al.
Serial No. 07/807,043
Filed: December 12, 1991
Attorney Docket No. LUD25333

:
:
:
:
:

This is a decision on the petitions, filed on March 15, 1994, requesting revival of the above-identified application under 37 CFR 1.137(a) or (b).

The petition under 37 CFR 1.137(a) is dismissed.

The petition under 37 CFR 1.137(b) is granted.

This application became abandoned for failure to timely submit new or substitute formal drawings in response to the Notice of Drawing Requirements mailed on July 20, 1993, which set a one-month time limit for response. In the form PTO-948 which accompanied the Notice, the Draftsperson objected to figures 4, 10, and 12-15, for the reasons provided therein. Therefore, a proper response to the Notice of Drawing Requirements should necessarily include replacement figures for figures 4, 10, and 12-15. However, the communication mailed to the Patent Office on August 16, 1993, only contained replacement figures 4, 10, and 12-14, as noted on the cover letter. Therefore, since petitioner failed to take corrective action within the time limit set by the Notice, the date of abandonment of this application is August 21, 1993.

Petitioner asserts that a replacement figure 15 was submitted in response to the Notice of Drawing Requirements, but presents no evidence to substantiate this claim. As noted supra, the cover letter of the communication filed on August 16, 1993, indicates that only replacement figures 4, 10, and 12-14 were attached. Furthermore, a search of the file wrapper has failed to locate replacement figure 15. Therefore, absent any evidence to the contrary, it is assumed that the response mailed August 16, 1993, did not contain replacement figure 15. Petitioner was responsible for insuring that the response to the outstanding Notice was complete.

Petitioner has further stated that because he did not receive notification from the Patent Office that his response was unacceptable, the abandonment must be considered unavoidable. However, it was petitioner's responsibility to insure that his response to the outstanding Notice was complete. Therefore, the failure to receive notification from the Patent Office of the incompleteness of the response filed August 16, 1993, is insufficient to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

Petitioner's Deposit Account 06-0530 has been charged \$1,170, the fee for the petition filed under 37 CFR 1.137(b), and \$110, the fee for the petition under 37 CFR 1.137(a).

The application file is being forwarded to Publishing Division, Drafting Branch, for review of replacement figures 4, 10, and 12-15.



Abraham HersHKovitz, Petitions Examiner
Office of Petitions
Office of the Assistant Commissioner
for Patents